

REMARKS

Upon entry of this amendment, claims 1, 4, 7, 10, 13, 34-38, 64, 65, 68, 71, 77, 80, 83, 89-104, 106, 108, 110, and 131 will be pending. Claims 16, 19, 20, 105, 107, 109, 111-130, and 132-159 have been cancelled herein without prejudice or disclaimer. Applicants reserve the right to pursue claims to the cancelled subject matter in one or more divisional applications. Claims 1 and 104 have been amended. Claims 4, 7, 10, 13, 34-38, 64, 65, 68, 71, 77, 80, 83, and 89-103, 106, 108, 110, and 131 have been allowed.

Determination of the Priority Date and Rejections Under 35 U.S.C. §§ 102 and 103

The Examiner has denied the instant application the benefit of its earliest claimed priority document, U.S. Provisional Application No. 60/144,087 (the '087 application), filed July 16, 1999. The Examiner further alleges that the instant application is entitled to an effective priority date of January 17, 2001, the filing date of related U.S. Provisional Application No. 60/261,960. Based upon this priority determination, claims 104, 105, 107, 109, 111, 113, 115, 117-124, 126-130, 132, 133, and 140-159 have been rejected under 35 U.S.C. § 102(a) as allegedly anticipated by Bruck, et al., WO 00/58460, and claim 125 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bruck, et al., in view of Fleeer, et al., U.S. Patent No. 5,876,969. *See* Pages 2 and 3 of the present office action.

Applicants respectfully disagree and traverse. Based upon the reasoning provided in Applicants' response submitted February 4, 2004, Applicants maintain that the present application is entitled to a priority date of July 16, 1999, and at the very least should be accorded the priority of the filing date of U.S. Provisional Application No. 60/153,089, which is September 10, 1999. Nevertheless, solely in the interest of expediting prosecution of the allowed claims, Applicants have canceled claims 105, 107, 109, 111, 113, 115, 117-130, 132, 133, and 140-159, thereby obviating the rejection and placing the application into condition for allowance. Applicants reserve the right to present claims directed to the canceled subject matter in one or more continuing applications.

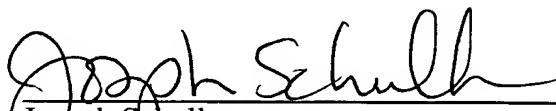
With regard to claim 104, Applicants submit that as presently amended this claim is not anticipated by Bruck et al., and therefore Applicants respectfully request that rejection under 35 U.S.C. § 102 be reconsidered and withdrawn.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that this application is now in condition for allowance. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicants would expedite the allowance of this application. Finally, if there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Dated: November 23, 2004


Joseph Schuller
Registration No. 48,708

Human Genome Sciences, Inc.
14200 Shady Grove Road
Rockville, MD 20850
(301) 354-3931 (phone)

MJH/JS/ZS/mr